

Transportation Grant Topic Group Conference Call #3
Thursday April 27

Participants:

Barbara Byron, CA/WGA
Martha Crosland, DOE/EM-11
Judith Holm, DOE/NTP,
Corinne Macaluso, DOE/OCRWM
Tracy Mustin, DOE/EM-24
Betty Nolan, DOE/CI-1
Ellen Ott, DOE/GC,
Tammy Ottmer, CO/WGA
Phillip Paull, CSG/ERC

Tim Runyon, IL, CSG/MW
Lisa Sattler, CSG/MW
Lew Steinhoff, DOE/DP
Elgan Usrey, TN/SSEB
Chris Wells, SSEB
Heather Westra, Prairie Island
Indian Community
Ed Wilds, CO, CSG/ERC)
J.R. Wilkinson, CTUIR/STGWG

Research staff support: Judith Bradbury, PNNL; Alex Thrower, SAIC

Topics Discussed:

1. DOE/HQ Update

Tracy Mustin gave a status report on the information memo requesting Secretarial direction to develop a transportation grant. The memo has gone through EM concurrence and is currently being reviewed by the relevant Assistant Secretaries and Program Offices. She is hoping to receive concurrence from all DOE Programs within a week. To date, there have been no negative responses and the memo is moving forward. If the memo is approved, DOE will establish an internal working group to work on development and implementation of the grant.

2. Notes from the Las Vegas Meeting

Participants were requested to send any revisions to Judith Bradbury. The notes will be posted on the TEC/WG web page, along with notes from other topic groups. The web page has now been moved to the DOE/NTP page which is at: www.ntp.doe.gov/

3. Response to Questions Raised at Las Vegas Meeting

Price-Anderson Act Coverage: Judith Holm explained that carriers must have insurance coverage, to cover the costs incurred in the event of a transportation accident. Price-Anderson would apply if costs exceeded the carrier's insurance coverage. She will talk further with Ellen Ott and report back to the group on the concern raised about a potential gap between actual and covered costs.

Financial Assistance for non-DOE Shipments: Heather Westra clarified that the issue concerned the provision of financial assistance to States and Tribes for shipments to or

from a privatized facility. This is a particular concern for her Tribe, whose lands would be traversed if plans go ahead for a privatized MRS facility in Utah. Ellen Ott confirmed that, under the Nuclear Waste Policy Act, OCRWM does not have legal authority to provide 180© assistance for such shipments. In response to further questions about where a Tribe or State could obtain assistance for planning or training, *Judith Holm replied that possible sources would be other Federal agency programs such as the DOT/HMEP grants, private utilities, or additional support from Congress.* Heather noted that other agency grants provide only limited amounts of assistance and are very ephemeral, especially for Tribes. Lisa Sattler invited Heather to attend the May meeting of the MWCSG, when this issue will be discussed.

Consultation about Upcoming Shipments: Judith Holm explained that DOE's prospective shipment module provides information on all planned DOE shipments for the year and is updated quarterly. The module is available for States and Tribes; anyone who is not already on the distribution list should contact her.

Interpretation of the Term Consolidated Grant: Judith Holm reiterated that the term *consolidated* referred to consolidation of DOE funding streams to State and Tribal recipients. She emphasized that DOE intends to continue working directly with Tribes through the regional DOE office contacts as in the past.

Concerns Raised by Tribal Representatives: Three specific issue were raised by Tribes.

- Tribal sovereignty: Judith Holm re-emphasized DOE's commitment to working directly with Tribes.
- Role of the Indian Health Service (IHS): Heather stated that her concern was that the IHS may have resources and should be involved in emergency management planning. Judith Holm committed to following up with Ella McNeil, DOE/Emergency Management Program, on this issue. Heather also agreed to provide information to the group on related FEMA activities involving Tribes.

Note: Ed Liebow has provided the web location of an IHS document describing the various IHS environmental health functions:

<http://www.ihs.gov/publicinfo/publications/ihsmanual/part3/pt3chapter11.pdf>

- Inspection Training for Tribes: Judith Holm emphasized that CVSA is very willing to have Tribal participation in the enhanced inspection training program and that this activity would certainly be considered as an allowable under the proposed transportation grant program. JR Wilkinson, whose Tribe had worked with CVSA on its pilot project, reported that although the program had worked well for the CTUIR where State support and adequate facilities were available, this was not necessarily the situation for many Tribes. He believes that a national Tribal program is needed, with consideration given to setting up a workable system for Tribes who have limited resources to travel and also to emphasizing State coordination. He further noted that under NAFTA and GAP, a three-fold increase in truck traffic is projected for his area

and that there is a need to talk with the DOT/MCSAP staff people about Tribal safety. Judith Holm committed to asking *DOT* safety staff how they are dealing with the Tribes.

4. Value of a Consolidated Transportation Grant

State representatives from the NESCG, SSEB, and WGA agreed on the value of the general concept of a transportation grant that consolidates/pools transportation funding from the various DOE Programs. Martha Crosland noted that the flexibility incorporated into grant the is a particular advantage to recipients. Representatives agreed that there are a number of details to be worked out, including the specifics of the delivery/the proposed formula and the role of the regional groups. Judith Holm emphasized her belief in the value of continued coordination and planning with regional groups, while leaving open the question of whether funding would flow through the groups, rather than directly to the States. She reported that DOE had received similar feedback from other groups to whom presentations on the proposed grant had been made (e.g., STGWG, NCSL, NGA/Task Force), i.e. that the concept is good and that DOE and stakeholders need to work together on the details.

5. Areas of Agreement

Phill Paull (NESCG) reported that his States had no disagreement with the desired outcomes and allowable activities, as listed. Barbara Byron (WGA) queried whether it was necessary to be specific about TRANSCOM and suggested that the item be revised to refer to a more general satellite capability (this was agreed). Barbara also emphasized the need for DOE to maintain regional, multi-jurisdictional planning capabilities and organization. Tammy Ottmer reported that she expected to complete, later that day, the framework of allowable activities being drawn up by the WGA for the WIPP program. She agreed to email the paper to Judith Bradbury for subsequent distribution to topic group members.

Judith Holm reported that her recent detail to the State transportation program had reinforced her awareness of the need to coordinate emergency management planning with State and Tribal highway planning and that this could be an allowable activity for consideration under the proposed grant. She stated that she expected additions to be made to the list as DOE continues to work with stakeholders. She also noted that the lists are important, since they will form the basis for the preamble and Q&A section that DOE will include in a subsequent Federal Register Notice, if the Department decides to proceed with the grant.

6. Issues for Further Discussion

- Judith Bradbury reported that other Federal agencies had also wrestled with issues related to the fair allocation of funding. A general message that agency staff had communicated in her discussions with them was that it is important to develop a system that is simple and defensible. She offered to distribute to members a copy

of a presentation that summarized over agencies' approaches to use as a basis or comparison.

- Several members reported that they had accessed the web page and had tried out FINCALC to see what the results would be under different scenarios. They had found that the results varied, depending on which data they had used (historic or prospective shipment data). Judith Bradbury stated that the intent of providing the formula was to illustrate and alert members to the effect of using different assumptions. Judith Holm noted that some factors may need to be changed, e.g., population is one factor that is clearly affected by demographics and geographic location. She asked members to review the factors and their weighting and to email their suggestions for preferred factors to Judith Bradbury. Judith will compile and redistribute them to the entire group before the next conference call.
- Tribal needs: Judith Bradbury clarified that the inclusion of an agenda item concerning Tribal needs does not denote the lack of State needs; rather, it refers to a general concern among Tribes, expressed at the Las Vegas meeting and in previous discussions, that the Tribes have particular concerns and needs, e.g. not all Tribes are at the same level in terms of planning, including planning for emergency preparedness. The discretionary component of the proposed grant represents a partial approach to addressing such issues.

Tribal members reiterated their beliefs, expressed in Las Vegas, that an assessment of Tribal needs is needed prior to discussions about formulae for allocation. Heather Westra emphasized that DOE's funding data show a "pitiful" level of preparedness funding across all federal programs and that to offer incremental funding for radioactive waste shipments is meaningless when there is no base on which to provide an increment. JR Wilkinson asked whether DOE had conducted an inventory/assessment of Tribal capabilities along DOE shipment routes. Judith Holm responded that there had been some work a long time ago under the NWPA, but that she will be working with the NCAI and others to try to tie Tribal needs into other DOE Programs, such as the ongoing protocol discussions and Transportation Emergency Preparedness Program (TEPP) activities. Judith committed to getting back to members on this issue. Meanwhile, J.R. and Heather have agreed to develop some case studies illustrating examples of effective coordination and planning among State, Tribal, and Federal agencies (this commitment was made to the Tribal Topic Group on the previous day). Heather will also bring information back to the group concerning FEMA's implementation of its Indian policy.

6. Process for Input

Judith Holm reminded members to send in their views on factors, as well as any other input that they wished to share with the group. She referred members to the recent Federal Register Notice on DOE's policy concerning intergovernmental consultation, which provides information on how the overall consultation process will proceed, noting

in response to J.R. Wilkinson's query, that consultation includes consultation with Tribal as well as State officials. (*Federal Register*, Vol. 65, No. 50, Tuesday March 14, 2000).

Next Conference Call:

The next topic group conference call is scheduled for Monday June 26 at 1:00 p.m. EST. Confirmation, plus a call-in number and agenda will be provided to members nearer to the date.

Addendum: Next TEC/WG Meeting

The July TEC/WG meeting is scheduled for July 25-27 in Indianapolis.

Action Items:

1. All members will provide to Judith Bradbury by Friday May 12, their input concerning preferred factors as well as any other information they wish to share with the group.
2. Judith Holm will provide feedback to the group on several topics:
 - ◆ The results of her discussion with Ellen Ott concerning coverage under the Price Anderson Act
 - ◆ Coordination with Ella McNeil, DOE Emergency Management concerning the role of the Indian Health Service in emergency medical response
 - ◆ *DOT* actions related to Tribal participation in CVSA-type inspections
 - ◆ Linkage between Tribal needs, TEPP, and protocol discussions.
3. Heather Westra will provide information to the group on FEMA's activities related to the Tribes concerning the Indian Health Service and implementation of its Indian Policy.
4. Tammy Ottmer will email to Judith Bradbury, as soon as it is available, the draft framework for WIPP's allowable activities.

5. Judith Bradbury will:

- ◆ Distribute to the group the strawman list of allowable activities originally provided at the July TEC/WG meeting in Philadelphia (done)
- ◆ Distribute to the group the presentation on other Federal agency funding approaches (done)
- ◆ Compile and distribute to the group, members' input on formula factors
- ◆ Distribute to the group the WIPP framework, after it is received from Tammy.